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JUL - 1 2003

In re Application of:
Eiji Muramatsu
Application No. 09/051,450
Filed: April 06, 1998
Attorney Docket No. 9319S-000059

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed under 37 CFR § 1.181, on March 03, 2003, to withdraw the holding of abandonment in the above application. No petition fee is required.

The petition is **GRANTED**.

The application was held abandoned for the failure timely file a response to an Office letter mailed on April 29, 2002. A Notice of Abandonment was mailed on February 11, 2003.

Petitioner asserts that on May 29, 2002, a response was filed. In support of this assertion, petitioner has submitted a copy of the response bearing a certificate of mailing dated May 29, 2002 and a copy of the itemized postcard receipt bearing a date stamp of receipt in the United States Patent and Trademark Office of June 10, 2002 of a two page response and the postcard.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the United States Patent and Trademark Office on May 05, 2002, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO but lost after receipt thereof. It is noted that the serial number on the transmittal form which accompanied the response is incorrect. This may have contributed to the response not being matched with the application file.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

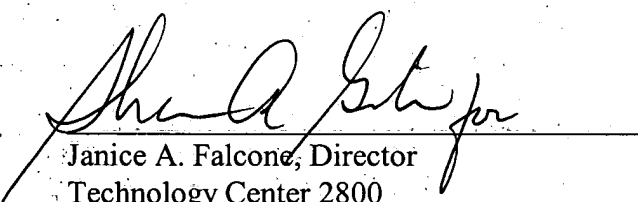
Decision on Petition to Withdraw Holding of Abandonment

The copy of the response submitted with the request to withdraw the holding of abandonment on April 12, 2002, is accepted since the response originally submitted was apparently lost.

A further review of the application file record reveals that the reasons for withdrawing the new claims 25-37 from consideration was not conveyed to the applicant, pursuant to M.P.E.P. § 821.03, in the Office letter mailed on April 29, 2002. Accordingly, the Office letter is hereby vacated.

The application file is being forwarded to the Technology Center 2800 support staff for processing the response. From there, the application will be forwarded to the examiner for further action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.



Janice A. Falcone, Director
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